

REFERENCE TITLE: sex offenders; probation; electronic monitoring

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2045

Introduced by
Representatives Knaperek, Weiers J

AN ACT

AMENDING SECTIONS 13-901 AND 13-902, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO SEX OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-901, Arizona Revised Statutes, is amended to
3 read:

4 13-901. Probation

5 A. If a person who has been convicted of an offense is eligible for
6 probation, the court may suspend the imposition or execution of sentence and,
7 if so, shall without delay place ~~such THE~~ person on intensive probation
8 supervision pursuant to section 13-913 or supervised or unsupervised
9 probation ~~upon ON~~ such terms and conditions as the law requires and the court
10 deems appropriate, including participation in any programs authorized in
11 title 12, chapter 2, article 11. If a person is not eligible for probation,
12 imposition or execution of sentence shall not be suspended or delayed. If
13 the court imposes probation, it may also impose a fine as authorized by
14 chapter 8 of this title. If probation is granted the court shall impose a
15 condition that the person waive extradition for any probation revocation
16 procedures and it shall order restitution pursuant to section 13-603,
17 subsection C where there is a victim who has suffered economic loss. When
18 granting probation to an adult the court ~~shall~~, as a condition of probation,
19 ~~SHALL~~ assess a monthly fee of not less than fifty dollars unless, after
20 determining the inability of the probationer to pay the fee, the court
21 assesses a lesser fee. In justice and municipal courts the fee shall only be
22 assessed when the person is placed on supervised probation. For persons
23 placed on probation in the superior court, the fee shall be paid to the clerk
24 of the superior court and the clerk of the court shall pay all monies
25 collected from this fee to the county treasurer for deposit in the adult
26 probation services fund established by section 12-267. For persons placed on
27 supervised probation in the justice court, the fee shall be paid to the
28 justice court and the justice court shall transmit all of the monies to the
29 county treasurer for deposit in the adult probation services fund established
30 by section 12-267. For persons placed on supervised probation in the
31 municipal court, the fee shall be paid to the municipal court. The municipal
32 court shall transmit all of the monies to the city treasurer who shall
33 transmit the monies to the county treasurer for deposit in the adult
34 probation services fund established by section 12-267. Any amount greater
35 than forty dollars of the fee assessed pursuant to this subsection shall only
36 be used to supplement monies currently used for the salaries of adult
37 probation and surveillance officers and for support of programs and services
38 of the superior court adult probation departments.

39 B. The period of probation shall be determined according to section
40 13-902.

41 C. The court, ~~may~~ in its discretion, ~~MAY~~ issue a warrant for the
42 rearrest of the defendant and may modify or add to the conditions or, if the
43 defendant commits an additional offense or violates a condition, may revoke
44 probation in accordance with the rules of criminal procedure at any time
45 ~~prior to~~ BEFORE the expiration or termination of the period of probation. If

1 the court revokes the defendant's probation and the defendant is serving more
2 than one probationary term concurrently, the court may sentence the person to
3 terms of imprisonment to be served consecutively.

4 D. At any time during the probationary term of the person released on
5 probation, any probation officer ~~may~~, without warrant or other process,— ~~AND~~
6 at any time until the final disposition of the case, ~~MAY~~ rearrest any person
7 and bring the person before the court.

8 E. The court, on its own initiative or ~~upon~~ ON application of the
9 probationer, after notice and an opportunity to be heard for the prosecuting
10 attorney,— and, on request, the victim, may terminate ~~the~~ ANY period of
11 probation or intensive probation AUTHORIZED BY THIS CHAPTER and discharge the
12 defendant at a time earlier than that originally imposed if in the court's
13 opinion the ends of justice will be served and if the conduct of the
14 defendant on probation warrants it.

15 F. When granting probation the court may require that the defendant be
16 imprisoned in the county jail at whatever time or intervals, consecutive or
17 nonconsecutive, the court shall determine, within the period of probation, as
18 long as the period actually spent in confinement does not exceed one year or
19 the maximum period of imprisonment permitted under chapter 7 of this title,
20 whichever is the shorter.

21 G. If restitution is made a condition of probation, the court shall
22 fix the amount of restitution and the manner of performance pursuant to ~~the~~
23 provisions of chapter 8 of this title.

24 H. When granting probation, the court shall set forth at the time of
25 sentencing and on the record the factual and legal reasons in support of each
26 sentence.

27 I. If the defendant meets the criteria set forth in section 13-901.01
28 or 13-3422, the court may place the defendant on probation pursuant to either
29 section. If a defendant is placed on probation pursuant to section 13-901.01
30 or 13-3422, the court may impose any term of probation that is authorized
31 pursuant to this section ~~which AND THAT~~ is not in violation of section
32 13-901.01.

33 Sec. 2. Section 13-902, Arizona Revised Statutes, is amended to read:
34 13-902. Periods of probation

35 A. Unless terminated sooner, probation may continue for the following
36 periods:

- 37 1. For a class 2 felony, seven years.
- 38 2. For a class 3 felony, five years.
- 39 3. For a class 4 felony, four years.
- 40 4. For a class 5 or 6 felony, three years.
- 41 5. For a class 1 misdemeanor, three years.
- 42 6. For a class 2 misdemeanor, two years.
- 43 7. For a class 3 misdemeanor, one year.

44 B. Notwithstanding subsection A of this section, unless terminated
45 sooner, probation may continue for the following periods:

- 1 1. For a violation of section 28-1381 or 28-1382, five years.
- 2 2. For a violation of section 28-1383, ten years.

3 C. When the court has required, as a condition of probation, that the
4 defendant make restitution for any economic loss related to the defendant's
5 offense and that condition has not been satisfied, the court at any time
6 before the termination or expiration of probation may extend the period
7 within the following limits:

- 8 1. For a felony, not more than three years.
- 9 2. For a misdemeanor, not more than one year.

10 D. Notwithstanding any other provision of law, justice courts and
11 municipal courts may impose the probation periods specified in subsection A,
12 paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

13 E. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, after
14 conviction of a felony offense or an attempt to commit any offense that is
15 included in chapter 14 or 35.1 of this title or section 13-2308.01, 13-2923
16 or 13-3623, if probation is available, probation may continue for a term not
17 less than the term that is specified in subsection A of this section up to
18 and including life and that the court believes is appropriate for the ends of
19 justice.

20 F. After conviction of a violation of section 13-3824, subsection A,
21 if a term of probation is imposed and the offense for which the person was
22 required to register was a felony, probation may continue for a term not less
23 than the term that is specified in subsection A of this section up to and
24 including life and that the court believes is appropriate for the ends of
25 justice. IF THE COURT IMPOSES A TERM OF PROBATION FOR LIFE, AS A CONDITION
26 OF PROBATION THE COURT SHALL REQUIRE LIFETIME GLOBAL POSITION SYSTEM
27 MONITORING.

28 G. AFTER CONVICTION OF A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED
29 IN SECTION 13-604.01, IF A TERM OF PROBATION IS IMPOSED, PROBATION SHALL
30 CONTINUE FOR A TERM NOT LESS THAN LIFE. AS A CONDITION OF PROBATION:

31 1. THE COURT SHALL REQUIRE LIFETIME GLOBAL POSITION SYSTEM MONITORING
32 FOR A PERSON WHO WAS EIGHTEEN OR MORE YEARS OF AGE AT THE TIME OF THE
33 COMMISSION OF THE OFFENSE OR WHO WAS PROSECUTED AS AN ADULT PURSUANT TO
34 SECTION 13-501.

35 2. THE COURT MAY REQUIRE LIFETIME GLOBAL POSITION SYSTEM MONITORING
36 FOR A PERSON WHO WAS A JUVENILE AT THE TIME OF THE COMMISSION OF THE OFFENSE
37 AND WHO WAS TRANSFERRED FOR ADULT PROSECUTION PURSUANT TO SECTION 8-327.

38 Sec. 3. Intent

39 The legislature finds that there is a compelling state interest in
40 placing certain probationers on global position system monitoring and that
41 placing these probationers on electronic supervision will best protect public
42 safety. The legislature does not intend for global position system
43 monitoring to substitute for prison time or to be punitive. Instead, the
44 legislature intends to limit its use only to those offenders who commit
45 dangerous crimes against children and who receive a subsequent term of

1 probation, thereby increasing the monitoring and supervision of those sex
2 offenders who commit dangerous crimes against the most vulnerable population
3 in this state, the children.

4 Sec. 4. Appropriation: purpose: exemption

5 A. The sum of \$_____ is appropriated from the state general fund in
6 fiscal year 2006-2007 to the supreme court for the purpose of funding
7 electronic monitoring of sex offenders.

8 B. The appropriation made in subsection A of this section is exempt
9 from the provisions of section 35-190, Arizona Revised Statutes, relating to
10 lapsing of appropriations.

11 Sec. 5. Effective date

12 Section 13-902, Arizona Revised Statutes, as amended by this act, is
13 effective from and after December 31, 2006.